

# **EXHIBIT 2**

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 -----x  
4 PROJECT VERITAS, et al.,

5 Plaintiff(s),

6 -vs-

23 CV 4533 (AEK)

DISCOVERY CONFERENCE

7 JAMES O'KEEFE, et al.,

8 Defendant(s).  
9 -----x

10 United States Courthouse  
11 White Plains, New York

12 Monday, June 9, 2025

13 Before: THE HONORABLE ANDREW E. KRAUSE,  
14 United States Magistrate Judge

15  
16 A P P E A R A N C E S:

17 LAW OFFICE OF MICHAEL J. HARRIS  
18 Attorneys for Plaintiff  
19 BY: MICHAEL J. HARRIS

20 CHILDERS LAW, LLC  
21 Attorneys for Defendants  
22 BY: NICHOLAS P. WHITNEY

23 ALSO PRESENT:

24 JAMES O'KEEFE  
25

1 THE DEPUTY CLERK: All rise.

2 THE COURT: Good afternoon, everybody. Please be  
3 seated.

4 THE DEPUTY CLERK: Good afternoon, everyone. This is  
5 the matter of Project Veritas v. O'Keefe, Docket No. 23 cv 4533,  
6 the Honorable Andrew Krause presiding.

7 Counsel, please note your appearance for the record  
8 starting with Plaintiff's Counsel.

9 MR. HARRIS: Good afternoon, your Honor. Michael  
10 Harris on behalf of Project Veritas.

11 THE COURT: Good afternoon, Mr. Harris.

12 MR. WHITNEY: Good afternoon, your Honor. Nick  
13 Whitney on behalf of James O'Keefe and O'Keefe Media Group, and  
14 Mr. O'Keefe is here as well.

15 MR. O'KEEFE: James O'Keefe.

16 THE COURT: Good afternoon, Mr. Whitney. Good  
17 afternoon, Mr. O'Keefe.

18 All right, we're here for a status conference. I  
19 thought it would make sense to have this conference in person.  
20 There have been a lot of communications, a lot of letters, and a  
21 number of accusations, and so I wanted to make sure we have a  
22 full and robust discussion of the various matters that have been  
23 identified.

24 I want to just start out by noting, there was some  
25 with reference in one of your letters, Mr. Harris, to the

1 possibility of having certain portions of this proceeding  
2 conducted under seal or subject to a confidentiality order.

3           As a general matter, this is a public proceeding, it's  
4 an open court, and generally, things that are discussed in the  
5 courtroom are not subject to sealing. There could be some very,  
6 very limited exemptions to that, but I just want to note that at  
7 the outset, so if you wind up raising anything that you may  
8 think that you could apply retroactively to have sealed, those  
9 applications are generally looked at disfavorably, so I'm not  
10 prejudging anything, there may be some unique characteristic or  
11 circumstance here that would lend itself to an appropriate  
12 application along those lines, but it's generally unlikely that  
13 I would seal anything that has taken place here in open court.

14           Similarly, if there are materials that you intend to  
15 share with me, for purposes of my making a determination as to  
16 any of the applications that are pending, those become judicial  
17 documents, and judicial documents are subject to a presumption  
18 of public access.

19           Now, that doesn't mean that that presumption cannot be  
20 overcome, if there are particular facts and circumstances that  
21 would warrant maintaining some submission under seal or subject  
22 to some sort of limited protective order, but, again, there is a  
23 well-developed body of Second Circuit case law, which you may be  
24 familiar with, that makes clear that judicial documents, things  
25 that the Court is presented with for purposes of making

1 decisions, subject to a presumption of public access, so that  
2 sometimes transforms material that would be otherwise subject to  
3 protection, such as pursuant to an appropriately entered  
4 confidentiality or protective order, into something that no  
5 longer has that protection because it's been presented as a  
6 judicial document.

7           So I just say that all at the outset before we start  
8 talking about any of the issues that anybody wants to raise so  
9 we can just all be mindful of that and have a set of  
10 expectations as to what's likely to happen if anything comes up  
11 that you may want to avoid raising in the public domain.

12           Do you understand that?

13           MR. HARRIS: Yes, your Honor. Thank you.

14           THE COURT: Okay, all right.

15           Mr. Whitney, any questions about that?

16           MR. WHITNEY: No, your Honor. Thank you.

17           THE COURT: All right.

18           So I've reviewed all of the materials that have been  
19 filed on the docket in connection with today's proceeding.  
20 That's essentially the letters that begin at ECF 158, continue  
21 on at 161, 162, 164, 167, and then the most recent filing, which  
22 was a memorandum of law, filed over the weekend by Mr. Whitney.  
23 That's at ECF no. 169.

24           I'll note that the memorandum of law was helpful for  
25 background purposes, Mr. Whitney, but, of course, you didn't

1 know exactly what was going to be raised here today so it's sort  
2 of an anticipatory filing. Fine. I would have certainly given  
3 you an opportunity to brief any disputed issues afterwards, and,  
4 Mr. Harris, there may be some interest on your part in briefing  
5 some issues after our conference today, we'll see, but  
6 nevertheless, I did read that and I've absorbed that for  
7 purposes of our discussion here today.

8           This all started out when Mr. Whitney submitted an  
9 application for an extension of the deadline to complete fact  
10 depositions. Ordinarily a fairly routine application, but this  
11 one had a number of different components to it, a couple of  
12 which were granted at the outset, that was with respect to the  
13 deposition of Mr. Garvey, which is now scheduled to take place  
14 on June 17th, and the deposition of Mr. Tiermond, which will now  
15 take place on June 30th and July 1st.

16           The remainder of the applications in that order were  
17 not on consent and so I had issued an order asking for the  
18 counterclaim defendants, that is, the Project Veritas parties,  
19 to submit their position, and they did so through a letter  
20 submitted by Mr. Harris on May 28th. That letter raised a  
21 number of issues, including an application for a stay of  
22 discovery and a number of concerns that Project Veritas parties  
23 have about the way that some of the discovery materials have  
24 been used by the counter-claimants in the case up until this  
25 point, and then all of the back and forth followed from there.

1           So, Mr. Harris, why don't I turn to you in the first  
2 instance. This is sort a little bit of a free-form proceeding  
3 because the original application is an application for an  
4 extension of the discovery deadline, the response to that was,  
5 essentially, not only do we not want you to extend the discovery  
6 deadline, we want you to stay all discovery for these various  
7 reasons, so I'll hear from you on that, and, of course, Mr.  
8 Whitney, I'll hear from you in full momentarily.

9           MR. HARRIS: Sure. Thank you, your Honor.

10           So our position is, as you noted, that we would like  
11 to request a stay of discovery in this case. We think there's  
12 ample case law in this Circuit, from within this District and  
13 within others within the Circuit, that supports a stay under  
14 these circumstances. The factors for the Court to consider  
15 being the breadth of discover that remains outstanding, the  
16 strength of the dispositive motions, and prejudice. All of  
17 these factors, it's our position, favor a stay.

18           There's not really any debate that there are  
19 dispositive motions pending. We filed a motion, a letter  
20 motion, before Judge Seibel with regard to our motion to dismiss  
21 the counterclaims of Mr. O'Keefe and O'Keefe Media Group, after  
22 which they filed a motion to amend. Courts from within this  
23 Circuit have found that motions to amend can be dispositive if  
24 it's, if it's to be denied.

25           THE COURT: Okay, I mean, I understand the case law on

1 that issue and I understand the point about staying discovery  
2 when dispositive motions are pending.

3           It's certainly not the default practice. I mean,  
4 there are any number of cases where discovery is stayed pending  
5 the resolution of dispositive motions. We're in a bit of a  
6 different spot in this particular case, though, because  
7 discovery is well underway, in fact, discovery is almost  
8 complete, and it seemed to have been Judge Seibel's inclination,  
9 based on the transcript from your last hearing, the pre-motion  
10 conference before her, that you should continue with discovery  
11 while these motions are being briefed, in part on the  
12 understanding that if the case is dismissed, it will be because  
13 of a lack of federal jurisdiction, right? There will be a lack  
14 of a basis to maintain this case in federal court. The  
15 counterclaims are state law claims, the motion to amend is to  
16 amend a federal cause of action, which would provide federal  
17 questioned jurisdiction. Your perspective, Project Veritas's  
18 perspective, is that the federal cause of action should not  
19 stand, shouldn't be allowed into the case, and Judge Seibel  
20 shouldn't exercise supplemental jurisdiction over the original  
21 counterclaims because there's no longer the federal claim that  
22 brought you, Project Veritas, to court here in the first place.

23           That all may be correct, I don't know, that issue is  
24 not before me, but I think Judge Seibel's analysis of it, brief  
25 though it was, was that the case isn't going away. Even if it



1 leaves federal court, it's just going to state court. This is  
2 not a situation where there won't be a need for this discovery,  
3 it just wouldn't be in this venue, and in that case, it seems  
4 that the argument in support of a stay is pretty significantly  
5 undermined.

6 MR. HARRIS: Well -- so I would respond to that, your  
7 Honor.

8 First of all, we did not present the request for a  
9 stay to Judge Seibel. We did in the context of trying to set  
10 the schedule for the briefing on the motion to amend. I did  
11 raise that we would like to see that briefing move quickly, so  
12 that costs can be avoided in the event that ultimately does go  
13 away, but beyond the jurisdictional question, we do also have  
14 several 12(b)(6)-based issues that relate to the complaint, that  
15 even if the account were to be dismissed, and I -- you know, the  
16 case cannot actually be remanded to State Court. It was not  
17 never original filed in state court, so somebody would have to  
18 --

19 THE COURT: If I said remanded, I didn't mean that. I  
20 just said that it could resurface again in state court.

21 MR. HARRIS: No, and I apologize, you did not, but I  
22 believe during the hearing, 'remand' was mentioned.

23 THE COURT: Okay.

24 MR. HARRIS: So it would have to be re-filed in state  
25 court, but even if it did, there are still significant 12(b)(6)

1 issues that analogously would apply in state.

2 THE COURT: Or whatever the CPLR provision is.

3 MR. HARRIS: Right. I think it's 3211, but...

4 THE COURT: Yeah.

5 MR. HARRIS: Who knows.

6 THE COURT: I think that's it.

7 MR. HARRIS: But -- so that would be our position in  
8 that regard.

9 So if we move forward to the prejudice prong of the  
10 test, you know, our position -- I mean, this is kind of  
11 interesting because they're asking for an extension, in part, to  
12 further extend discover -- to get more discovery, which may  
13 ultimately prove unnecessary. If the motion to amend is  
14 granted, they can get it later. They're not going to be  
15 prejudiced by that. Whereas, Project Veritas will be prejudiced  
16 if it has to move forward with all of this discovery and incur  
17 all of this expense for a case that ultimately may go nowhere.

18 THE COURT: Okay, I understand that. And did you want  
19 to talk about breadth at all?

20 MR. HARRIS: Well -- and the breadth is expansive. I  
21 mean, I think the request for the extension itself illustrates  
22 how expansive it is because the Court has already been very  
23 generous in how much time it's given Counterclaim Plaintiffs to  
24 obtain this discovery and they haven't be able to do it, because  
25 it's expansive, there's, I think, at least seven depositions

1 that remain outstanding and they're seeking to add more, so I  
2 think it is expansive.

3 And beyond that, you know, and this will segue into  
4 the remaining part, which I get we're in open court and I  
5 understand your Honor's position with respect to closing these  
6 proceedings, but part of the reason for that request is that the  
7 way that this discovery material is being used doesn't seem  
8 designed to further this allegation, it seems designed to  
9 humiliate and intimidate witnesses, including by posting  
10 incorrect information about these witnesses, which has now  
11 caused people to, first of all, receive death threats, threats  
12 of rape, that's one, and part of the reason for the request to  
13 seal the courtroom is because I understand that that's currently  
14 the subject of an ongoing federal investigation.

15 Beyond that, I have here, and I'm happy to share it  
16 with your Honor and my opposing counsel, a police report that  
17 has been filed by one of the witnesses that has already  
18 testified in this case and who may be a witness at trial,  
19 attesting to the fact that Mr. O'Keefe showed up at his office  
20 and his home uninvited. I mean, it's kind of in -- it's more --  
21 it crosses the line beyond inappropriate.

22 THE COURT: Okay. Well, there's a lot to unpack  
23 there, and I'm happy to turn to those issues just so you can  
24 present them to me in a little bit more of an organized way, Mr.  
25 Harris, I think it makes sense to do that, because the...it

1 would be helpful to have a complete picture, so why don't you  
2 walk through your concerns with me one by one.

3 MR. HARRIS: Sure.

4 Well, I have here an affidavit from Joshua Hughes who  
5 is set to testify at the end of June. I don't know if you want  
6 me to approach and present it?

7 THE COURT: Yes, please.

8 MR. HARRIS: Yeah.

9 THE COURT: One is fine. And if you have an extra one  
10 for my law clerk, that would be great. And you have a copy?  
11 Mr. Whitney has received a copy as well?

12 MR. WHITNEY: Yes, your Honor.

13 THE COURT: Okay. All right, let me just take a  
14 second to review.

15 I've been handed a document that is captioned  
16 "Declaration of Joshua Hughes." It is a four-page document it's  
17 dated June 9th, 2025, which, of course, is today. I'm just  
18 going to take a second to read it.

19 (Brief pause)

20 THE COURT: Okay, this person, Mr. Maxwell who's  
21 referenced in here was actually a party in this case at one  
22 time. Is that correct, Mr. Harris?

23 MR. HARRIS: That's --

24 THE COURT: We're talking about the same individual?

25 MR. HARRIS: That's correct, your Honor.

1 THE COURT: Okay.

2 Okay, I mean, in sum and substance this declaration  
3 recites that Mr. Hughes was threatened by Mr. Maxwell over a  
4 series of text messages, purportedly after Mr. Maxwell reviewed  
5 a portion of a deposition that was given in this case as part of  
6 some media presentation from Mr. O'Keefe, and Mr. Maxwell then  
7 purported took these actions Mr. Hughes, again, as alleged, as  
8 set forth in this declaration.

9 Okay.

10 MR. HARRIS: So that's, that's one example, your  
11 Honor.

12 I do have another affidavit that I would like to share  
13 with the Court. However, I didn't receive it until I was in the  
14 car, on the way to court, so I didn't have the ability to print  
15 it out.

16 THE COURT: Okay.

17 MR. HARRIS: That's also from Mr. Skakle, who also  
18 testified in this case. I'm sorry, Joshua Hughes has not  
19 testified yet, but he is set to testify at deposition. Mr.  
20 Skakle has already testified.

21 THE COURT: Okay.

22 MR. HARRIS: I'm happy to follow up with the Court  
23 with the declaration after this hearing.

24 THE COURT: Sure.

25 MR. HARRIS: But in the interim, I do have a police

1 report that was filed by Mr. Skakle that will be authenticated  
2 in that affidavit.

3 THE COURT: Okay, I'll take a look at that. Thank  
4 you.

5 And just for the record, I've received a document, the  
6 photocopying is not exactly ideal because the top is cut off a  
7 little bit, but it appears to be an incident report from the  
8 Stamford Police Department, report date April 21st, 2025.

9 One thing that is subject to redaction in public court  
10 filings and withholding is personal identifying information  
11 about parties and non-parties, so there is an address listed on  
12 this document. That is something that certainly would not need  
13 to be part of the public record. Multiple addresses, in fact,  
14 including one for Mr. Scagle and one for Mr. O'Keefe. To the  
15 extent those are business addresses, that may be different, but  
16 in any event, I'm just going to read -- not into the record, but  
17 I'm just going to read to myself the contents of this police  
18 report, which I will note is a three-page document, again, dated  
19 April 21st, 2025.

20 (Brief pause)

21 THE COURT: All right, I will just note, the last  
22 sentence of this narrative said that -- according to the officer  
23 who took the report, it says that Mr. Skakle stated that he just  
24 wanted the incident documented in case he goes to apply for a  
25 protective order against Mr. O'Keefe. Again, that's April 21st,

1 2025. It was approximately two months ago.

2 Do you know from this declaration or otherwise, Mr.  
3 Harris, if Mr. Skakle has, in fact, followed through to seek any  
4 sort of order of protection against Mr. O'Keefe or anyone else  
5 associated with the counter-claimants?

6 MR. HARRIS: I believe that a civil case has been  
7 filed, but I'm not sure of what the status of that is.

8 THE COURT: Okay, but a case seeking an order of  
9 protection often takes place, at least in my understanding, in  
10 criminal court, so when you say a civil case has been filed, do  
11 you know what that -- do you know anything more about it than  
12 that?

13 MR. HARRIS: I don't know anything more. I know that  
14 there's a case number. Unfortunately, because the Court did not  
15 authorize my technology order, I don't have my phone. If I  
16 pulled up my phone, I would be able to tell your Honor more.

17 THE COURT: Okay, yes, apparently there was some  
18 miscommunication with that on our end. I apologize for that.  
19 You did send an e-mail, but it was -- we just had some crossed  
20 wires about that on Friday.

21 MR. HARRIS: No problem. And just to be clear, I did  
22 look into the civil case number, but it is not publicly  
23 available.

24 THE COURT: Okay, that's fine. And, again, I'm not  
25 sure you'd be able to find out any more about it on an

1 | electronic system. Sometimes state court records are not  
2 | available electronically.

3 | MR. HARRIS: Right.

4 | THE COURT: Certainly you know that. Okay.

5 | I understand that there was some questioning of Mr.  
6 | Skakle in or around his home, I think some people made  
7 | references to this in the letters, and perhaps some footage of  
8 | that questioning ended up in some sort of video that's on Mr.  
9 | O'Keefe's website.

10 | That's the same set of circumstances from April of --  
11 | April 21st?

12 | MR. HARRIS: That is my understanding, your Honor.

13 | THE COURT: Okay.

14 | All right, further points you'd like to raise about  
15 | this.

16 | MR. HARRIS: No, I think -- for the most part, you  
17 | know, I do -- again, I don't have my computer, I would have  
18 | presented videos, but I do have thumb drives if your Honor wants  
19 | them. I know --

20 | THE COURT: Is your computer here or just downstairs?

21 | MR. HARRIS: I didn't bring it.

22 | THE COURT: Okay.

23 | MR. HARRIS: I wasn't sure that the Court -- I wasn't  
24 | sure.

25 | THE COURT: Yeah.



1 MR. HARRIS: But I do have thumb drives or I'm happy  
2 to follow up with some of the video footage.

3 But generally speaking, you know, the other part of  
4 this is that all of these things are obviously being broadcast  
5 to the public including individuals who as yet to be deposed,  
6 and it's not just a matter of the individuals who have already  
7 testified or who are about to testify and who will also be trial  
8 witnesses, but it's also about what all these other witnesses  
9 are going to be seeing.

10 There may be -- if they're seeing this, they may fear  
11 that the same exact thing that has happened to these individuals  
12 who have testified is going to happen to them, and for many  
13 witnesses, that poses embarrassment, it poses fear. I mean,  
14 it's completely inappropriate.

15 THE COURT: I mean, most instances, I would say, and  
16 this is not based on any sort of scientific study or analysis,  
17 most instances of witness the image or tampering are designed to  
18 prevent the witness from testifying, right? To scare the  
19 witness away from testifying or somehow interfere with the  
20 witness's willingness to come forward and testify.

21 What's a bit unusual about this allegation is that  
22 your view is that Mr. O'Keefe and others, perhaps, acting at his  
23 direction are interfering with witnesses that he is actually  
24 seeking to have testify, right? Which would be sort of  
25 counterproductive for him if he thinks this testimony is

1 relevant or pertinent to his case, right? I mean, the concern  
2 is that these witnesses who are yet to testify would somehow be  
3 less willing to come forward or less cooperative at a  
4 deposition.

5 I'm not saying that there aren't other examples in the  
6 history of litigation where that same dynamic has taken place,  
7 but it is not the common presentation of a witness tampering or  
8 a witness intimidation allegation. Do you see what I mean?

9 MR. HARRIS: Sure, and may I say a few things in  
10 response?

11 THE COURT: Please, yeah.

12 MR. HARRIS: What I would say, first of all, is, you  
13 know, what I presented as intimidation or harassment or  
14 tampering, I'm not necessarily speaking in the criminal sense.  
15 I'm not a prosecutor and it is not my job to --

16 THE COURT: I understand, and I don't mean the  
17 question in a criminal sense either, but even in a civil  
18 context, again, if the idea is you're taking action to try to  
19 limit the witness's willingness to come forward, even in a civil  
20 sense, again, that would seem counter to your interests if you  
21 are the person who's seeking the testimony of that witness.

22 MR. HARRIS: Unless, of course, your intention is not  
23 to stop the individual from testifying, but to change their  
24 testimony.

25 THE COURT: Sure.

1 MR. HARRIS: To persuade them to testify in a way that  
2 is more beneficial to your position than another's. And just  
3 because -- you know, depositions are a discovery device. Just  
4 because Mr. O'Keefe has noticed the depositions of these  
5 individuals does not mean that we will not be calling them at  
6 trial.

7 THE COURT: Of course, yeah, that's true.

8 Okay, you had mentioned that there is one case where a  
9 witness has been subjected to threats that are now the subject  
10 of further federal criminal investigation?

11 MR. HARRIS: That is my understanding, your Honor.

12 THE COURT: Okay, and is that different from the  
13 potential federal criminal investigation that theoretically  
14 could be opened in connection with the information in the  
15 declaration from Mr. Hughes?

16 MR. HARRIS: That is different, yes.

17 THE COURT: Okay, and who -- are you at liberty to say  
18 who that witness is?

19 MR. HARRIS: I would prefer not to at this time. I  
20 haven't been given permission to do so.

21 THE COURT: Okay. But that's the witness who you  
22 refer to in your letter, there's a footnote in your letter at  
23 ECF no. 161, where you say, "a former Project Veritas employee  
24 recently received recorded threats of rape and death shortly  
25 after Mr. O'Keefe appeared in a podcast referencing a former

1 Project Veritas employee."

2 MR. HARRIS: That's correct, your Honor.

3 THE COURT: And just to be clear, from that sentence,  
4 there's a little ambiguity. When you say that Mr. O'Keefe  
5 appeared in a podcast referencing a former Project Veritas  
6 employee, was that reference to the former Project Veritas  
7 employee who received these threats?

8 MR. HARRIS: Yes.

9 THE COURT: Okay.

10 MR. HARRIS: And just so your Honor is aware, I'm sure  
11 you may have guessed this, but it was intentionally drafted to  
12 be a little bit ambiguous to conceal the gender.

13 THE COURT: That's fine. I just -- the thing that  
14 made it ambiguous was the use of 'a' instead of 'the' in the  
15 second reference to the Project Veritas employee, but I, I  
16 am...certainly aware of the need sometimes for ambiguous  
17 drafting to avoid identifying information about a potential  
18 witness in a variety of contexts, so...

19 And so the relief that you're seeking, I -- let me  
20 just try to understand, because I will say at the outset, I am  
21 sceptical about the idea of staying discovery. I haven't made a  
22 final determination on that, but I'm not currently inclined in  
23 that direction, so if discovery were to continue, what relief  
24 would you be seeking in connection with these incidents, these  
25 allegations of harassment, these ongoing episodes that have been

1 -- perhaps have now risen to the level of criminal  
2 investigation? What is your request there, Mr. Harris?

3 MR. HARRIS: So recognizing that your Honor has fairly  
4 broad authority to craft a remedy here, we would certainly defer  
5 to what your attorney would think would be appropriate, but at a  
6 minimum, we would ask that the depositions proceed remotely so  
7 that individuals do not have to appear in person.

8 THE COURT: And -- okay, you mentioned that in your  
9 letter, and what would be the reason for that?

10 MR. HARRIS: Well, Mr. O'Keefe --

11 THE COURT: What would that help to accomplish. In  
12 your view.

13 MR. HARRIS: Mr. O'Keefe typically attends the  
14 depositions, so I think his very presence there is -- you know,  
15 for these individuals who have -- who are seeing all of this  
16 play out, I think it has an intimidating effect, and beyond  
17 that, you know, part of what we've been seeing here is that --  
18 and I think that the videos kind of bring this out, is that  
19 these videos are not -- much as they may say that they're  
20 intended for use at trial, they're being used in a way outside  
21 of the courtroom to embarrass and to humiliate people, so --

22 THE COURT: Well, okay, but let...if the deposition  
23 took place remotely, that wouldn't address that point, the  
24 deposition could still be videotaped, and, in fact, there's an  
25 argument that it should be videotaped if you're talking about a

1 witness who may not be within the subpoena range for trial.

2 MR. HARRIS: Sure. So in that case, then I think that  
3 we would fall back on what I had originally said, which is that  
4 the very need to appear in person in a deposition room where Mr.  
5 O'Keefe is also present would cause issues with, with what is  
6 going on.

7 THE COURT: Okay. So, I mean, one --

8 MR. HARRIS: It would have the effect of intimidating.

9 THE COURT: I'm just trying to actually understand  
10 exactly what you're asking for, so one would be to require the  
11 depositions to take place remotely.

12 MR. HARRIS: Yes.

13 THE COURT: And are you asking that the Court prohibit  
14 Mr. O'Keefe from attending the depositions by video?

15 MR. HARRIS: So, your Honor, as you -- you know, we  
16 actually had this issue pop up on Friday in the deposition of  
17 Mr. Wettmore. As I read your Honor's protective order,  
18 deposition testimony is supposed to be attorneys' eyes only for  
19 30 days after the deposition, so in my opinion, Mr. O'Keefe  
20 should never be in any of these depositions, because that  
21 defeats the purpose of your Honor's order requiring that the  
22 testimony be held AEO for 30 days.

23 Now, they -- I understand that -- as your Honor may  
24 recall, I joined this case fairly late, there was, you know,  
25 predecessor counsel before me. It may have been the case that

1 they allowed Mr. O'Keefe to sit in those depositions. However,  
2 I'm a different attorney, of course, and each deposition is  
3 different, and I made very clear on the record at that  
4 deposition that I understand your Honor's order to prohibit him  
5 from attending these depositions. Nonetheless, they disagreed  
6 and he attend anyways.

7 So...

8 THE COURT: Okay, and that's not an issue that I gave  
9 any particular thought to in entering the protective order,  
10 which was a protective order that was submitted on consent by  
11 the parties, so the order is the order and I'm pulling it up  
12 now, but I don't know that I've ever been specifically presented  
13 with that particular question.

14 As you probably won't remember, because you weren't  
15 here at the time the protective order was put in place, but as  
16 Mr. Whitney may remember I have a standard form protective order  
17 that includes my regular routine language that I impose in case  
18 where the parties don't have any particular additional or  
19 specially requests. That doesn't even include AEO, attorneys  
20 eyes only, language, so this language attorneys eyes only for a  
21 period of 30 days is definitely not my original language, so as  
22 far as what I intended or didn't intend, you know, the parties'  
23 intentions are actually as instructive as mine because, again,  
24 that's not language that I drafted, it's language that the  
25 parties drafted.

1           That said, the language is on top of my signature and  
2 it is an order of the Court, so I will give that some additional  
3 thought and consideration. It's just not something that I  
4 considered or thought about thoroughly at the time because it  
5 was an agreed-upon order that, you know, when I read it, I  
6 didn't have any concern or objection with the language as  
7 presented, so I'm pulling that up as we speak.

8           So your position Mr. Harris is that Mr. O'Keefe  
9 shouldn't attend the depositions anyway, not necessarily because  
10 a separate order is required, but because the existing order  
11 provides that he shouldn't.

12           MR. HARRIS: Yes, your Honor.

13           THE COURT: Okay. What else?

14           MR. HARRIS: Beyond that, your Honor, I think the  
15 request -- the ask would be -- and I know -- you know, I'm going  
16 to address this kind of lightly here because this document came  
17 in over the weekend.

18           In the filing that Mr. Whitney made over the weekend,  
19 you know, they sort of allude to the fact that we're asking for  
20 a gag order, which is not true. We're not asking for a gag  
21 order. Project Veritas, like myself, respects the First  
22 Amendment. And while that may be warranted in certain -- some  
23 circumstances, we're not asking for it here, but we would ask  
24 that the Court prohibit Mr. O'Keefe from appearing at the homes  
25 of witnesses or their offices.



1 And by Mr. O'Keefe, I, of course, mean Mr. O'Keefe and  
2 any of his agents or agents of OMG.

3 THE COURT: Okay. What else?

4 MR. HARRIS: That's about it, your Honor. I think  
5 that would cover it.

6 THE COURT: So you're not making any application that  
7 the deposition materials not be shared publicly, as long as  
8 there's no violation of the protective order.

9 MR. HARRIS: Your Honor, if we could make that  
10 request, if your Honor were inclined to grant it, we would  
11 certainly welcome it.

12 THE COURT: Well, I'm not inclined to grant it.

13 MR. HARRIS: Right, and that's, perhaps, why we didn't  
14 ask for it.

15 THE COURT: Well, I appreciate that, but I'm asking  
16 you to ask whatever you want to ask for.

17 Look, I appreciate that because, you know, I would say  
18 in all the cases that I litigated as an attorney and all the  
19 cases that I've presided over as a judge, I can probably count  
20 on one hand out of those hundreds, if not, at this point,  
21 thousands, of cases, where the parties were interested in  
22 sharing the deposition transcripts with anybody, and that's  
23 because only a small fraction of those cases would there have  
24 been any interest by any member of the public in the contents of  
25 those depositions.

1           There's also, then, a real what I will refer to as a  
2 goose/gander problem with that issue because, very often, one  
3 party doesn't want to start sharing information publicly because  
4 they don't necessarily want their information to be shared  
5 publicly in response. And it's more of a courtesy, I think,  
6 among counsel in most cases.

7           Obviously, sometimes there are protective orders that  
8 cover this specifically, but generally, it's a matter of  
9 standard practice and courtesy that discovery materials are  
10 maintained within the four corners of the litigation. Again,  
11 that's, I would say, the most typical set of circumstances in  
12 the vast majority, overwhelming majority, of cases, but I'm not  
13 aware of any law or rule that requires that to be the case,  
14 which is what prompted my supplemental order which you and Mr.  
15 Whitney both responded to about whether there were any  
16 violations of the protective order, because that is different,  
17 right?

18           If there had been a specific piece of testimony that  
19 had been designated as confidential and subject to the  
20 protective order and if it had then be released, you know, then  
21 we're talking about a specific order that may have been violated  
22 as opposed to just a norm or custom, so I appreciate that you're  
23 not making that request, perhaps because your research concluded  
24 the same as my instinct and then my subsequent research by my  
25 staff tended to confirm.

1 All right, so your principal request, of course, is  
2 for a stay, which would sort of obviate the need for all the  
3 subsequent requests, which I certainly understand, Mr. Harris,  
4 but if -- to the extent I would not be inclined to grant a stay,  
5 your subsequent requests are that remaining depositions be  
6 conducted remotely; that Mr. O'Keefe not be permitted to attend,  
7 either because the protective order doesn't allow him to attend  
8 or he just shouldn't be able to; and finally, you request that  
9 Mr. O'Keefe and his agents, if you will, be prohibited from  
10 appearing at the homes or business locations of the witnesses.

11 Do you have that right?

12 MR. HARRIS: That's correct.

13 THE COURT: Okay. Anything else at this point, Mr.  
14 Harris, before I turn to Mr. Whitney?

15 MR. HARRIS: No, and perhaps this is better reserved  
16 for later, but just in the event that your Honor is not inclined  
17 to grant the stay and allows the extension of discovery, I just  
18 want to reiterate that we are going to take Mr. O'Keefe's  
19 deposition, so that would need to be factored into an extended  
20 schedule.

21 THE COURT: I did note that in your letter and,  
22 certainly, I can't imagine there would be a good-faith objection  
23 to that, Mr. Whitney, since you're asking to have additional  
24 witnesses added to the ledger as well, but if you do have any  
25 objection, you can let me know.

1 All right --

2 MR. HARRIS: Thank you, your Honor.

3 THE COURT: Thank you -- I'll come back to you with  
4 other questions as we progress. Thank you, Mr. Harris.

5 MR. HARRIS: Great. Thank you.

6 THE COURT: All right, Mr. Whitney, there's a lot to  
7 responded to there, so I'll let you take it in any order that  
8 you want and then I will supplement with questions of my own if  
9 there are things that I feel I need more information about.

10 MR. WHITNEY: All right, I was hoping you'd give me  
11 some direction, but --

12 THE COURT: Okay, that's fine. Let's -- why don't you  
13 start with the stay.

14 You've already heard that I'm disinclined on the  
15 request for a stay, but I'll let you make any points that you  
16 want to make specifically about why you think discovery should  
17 not be stayed here, other than things I've already alluded to.

18 MR. WHITNEY: I think the Court is rightly skeptical.  
19 We have pursued this discovery diligently since the fall of last  
20 year. There was a approximately four-month period where Project  
21 Veritas was without counsel and we could not proceed. We are  
22 trying to take depositions of, I don't know, seven to nine  
23 additional witnesses, and that has been announced since prior  
24 counsel was in the case, and the July 1st deadline for a number  
25 of reasons, in our view, is unworkable.

1 I mentioned in my letter that Barry Hinkley had  
2 retained counsel and there was a petition to quash the subpoena.  
3 I'm trying to work through that with his counsel, but as I'm  
4 doing that, Matthew Tiermond, who you reset the depositions for  
5 June 30th and June 1st, has retained counsel and now I'm trying  
6 to work through the same issues with that lawyer to perhaps  
7 adjust Matthew Tiermond's deposition, but I've told him, at this  
8 point, it's a July 1st deadline, so I'm not at liberty to move  
9 this and work with you.

10 So we think the stay -- there's not a good basis for  
11 the stay, and we're glad to hear the Court is sceptical.

12 THE COURT: Okay, fine. Let's talk about some of  
13 these allegations about witness intimidation.

14 And I'll just say at the outset, I imagine that one  
15 thing you will say to me here, Mr. Whitney, is that no one is  
16 attempting to intimidate anybody, nobody's attempting to  
17 harassing anybody, that's not the purpose of any of these  
18 attempted interviews, that's not the purpose of Mr. O'Keefe  
19 posting various things on his web sites, it's not the purpose of  
20 the video, the movie about...I forget exactly what it's called,  
21 Mr. O'Keefe, but the, the Project Veritas --

22 MR. O'KEEFE: *The Truth About Project Veritas.*

23 THE COURT: *The Truth About Project Veritas.* I --  
24 there was a citation in Mr. Harris's letter to this article,  
25 "O'Keefe in talks to regain control of Project Veritas, launches

1 docu-series *The Truth Inside of Veritas*." I did read that  
2 article in preparation for today's proceeding, there was a link  
3 to the film, I don't know how long it was, but I did not watch  
4 the film, just so everybody has an idea of what information I  
5 have and what information I don't have.

6           The article was quite long and I imagine included a  
7 number of quotes and excerpts -- I mean, it included a number of  
8 quotes and excerpts from the deposition testimony in this case.  
9 I imagine there is the corresponding video clip of those  
10 excerpts in the film.

11           Is that -- do I have that right, Mr. Whitney?

12           And there may be others too. It may be that the -- I  
13 don't think that article was meant to be a verbatim script of  
14 the film, but it did have a lot of examples which were  
15 illustrative for my purposes, I think.

16           MR. WHITNEY: It is true there are clips from the  
17 George Skakle interview of, I guess, April in the film.

18           THE COURT: Right, but there are also clips from the  
19 depositions in the film?

20           MR. WHITNEY: Yes, your Honor, there are.

21           THE COURT: And, and -- if you need to ask Mr. O'Keefe  
22 this, you can, but are the clips in the film the ones that are  
23 quoted in the corresponding article?

24           MR. WHITNEY: Many of them, but not complete overlap.

25           THE COURT: Okay, fine.

1           So, again, I understand you may say to me, in part,  
2 that was nobody's intention, but, look, you now know, and maybe  
3 you've just learned about this, that Mr. Hughes has received  
4 some threatening communications from Mr. Maxwell, which, if  
5 those are authentic copies of the text messages, and I say this  
6 not in a manner to be evaluating anybody's guilt of any  
7 potential offense, but it's understandable how a person could  
8 view those communications as threatening. And, again, Mr.  
9 Maxwell isn't here, he's no longer a party in this case, but  
10 that seems to have been something that happened as a consequence  
11 of some of this material being posted, right? So that's  
12 something that the Court has to take seriously.

13           Mr. Harris, to his credit, is not here requesting that  
14 any of that material be taken down, I don't think that that's an  
15 order that I could realistically issue, nor is he even  
16 requesting that Mr. O'Keefe be prohibited from disseminating the  
17 information, which, again, I think is a judicious...decision in  
18 terms of the scope of the requested relief, but it's concerning,  
19 right, that some of Mr. O'Keefe's direct conduct, at least  
20 vis-à-vis Mr. Skakle, prompted Mr. Skakle to go to the police,  
21 though, as I noted, Mr. Skakle didn't take any further step to  
22 -- it seems at least, didn't take any further step to seek a  
23 protective order, which he could have, you know, an order of  
24 protection. This business about Mr. Hughes and his interactions  
25 with Mr. Maxwell is concerning just on a human level.

1           This additional episode, it's hard to figure out  
2 exactly how to factor that into the analysis because Mr. Harris,  
3 understandably, doesn't feel at liberty to disclose information  
4 about this additional Project Veritas employee who has allegedly  
5 been subjected to threats, but, again, this is not usual  
6 behavior and it is not a common scenario, that people have to  
7 endure this kind of vitriol, whether intended or not, so, again,  
8 there's reason for concern.

9           Why don't you take a minute to try to address that  
10 however you see fit.

11           MR. WHITNEY: Well, with respect to the two documents  
12 that were presented today, RC Maxwell is not an employee of  
13 James O'Keefe or OMG, he's not an agent of them, so -- he's a  
14 former party, but he's essentially a member of the public, and  
15 that he issued threats against Joshua Hughes, I suppose, is  
16 unfortunate and -- but it has nothing to do with my party's  
17 conduct.

18           THE COURT: I mean, it is, it is unfortunate. You  
19 don't have to suppose. I mean, it's not, it's not good.

20           I mean, whatever Mr. Hughes may or may not have done,  
21 you know, having somebody send you text messages that threaten  
22 to make an example of a family member is not something that  
23 anybody should have to deal with. Whether they're a public  
24 figure, whether they're involved in a lawsuit, whether they work  
25 at a place that is a party to a lawsuit, it's just not something



1 that anybody should have to endure in a civilized society. I  
2 think we should be able to agree on that.

3 MR. WHITNEY: I agree on that. I withdraw the hedging  
4 language on that.

5 THE COURT: Thank you.

6 MR. WHITNEY: And with respect to George Skakle, this  
7 was a consensual interview that took place in his driveway. It  
8 begins with Mr. O'Keefe walking up to him and saying, hey,  
9 George --

10 THE COURT: To be honest with you, I'm less concerned  
11 about that one.

12 MR. WHITNEY: All right.

13 THE COURT: And Mr. Skakle -- and I don't mean to make  
14 light of it. The fact that he chose to document this in a  
15 police report means that there was something about it that,  
16 obviously, didn't sit right with him, but it does seem as though  
17 at some point he decided to walk away from it, and whether Mr.  
18 O'Keefe and his colleagues may have briefly trespassed on Mr.  
19 Skakle's property, which is sort of the...suggestion in the  
20 police report doesn't seem that Mr. Skakle pressed charges  
21 regarding that and doesn't seem in the nearly two months since  
22 then that there's been any further problem with Mr. Skakle.

23 So, again, I don't mean to make light of that, but  
24 it's somewhat less acutely concerning than the incident with Mr.  
25 Maxwell, who, as you point out, is not and OMG employee or under

1 the control or direction of Mr. O'Keefe, or this other incident  
2 which seems to fall into a similar category where you have  
3 perhaps a disturbed member of the public who is responding to  
4 Mr. O'Keefe's publication of these materials in a way that Mr.  
5 O'Keefe is not encouraging or certainly not directing, it just  
6 seems to be an outgrowth of the publicity, which, again, it  
7 gives the Court concern, but the question is, what do we do  
8 about that.

9           So anything further you want to add on that, Mr.  
10 Whitney?

11           MR. WHITNEY: Not on Mr. Skakle or Mr. Hughes, but I'd  
12 like to comment more broadly about the vitriol and emotion in  
13 this case.

14           THE COURT: Please.

15           MR. WHITNEY: First, it's important that Project  
16 Veritas represented that they had videos of Mr. O'Keefe chasing  
17 trial witnesses through the street. That never occurred and  
18 those do not exist.

19           THE COURT: Okay, let's just pause there. I mean,  
20 that is -- and I'm not sure that's an exact quote, but there was  
21 something to that effect, Mr. Harris.

22           MR. HARRIS: Yes, so -- thank you, your Honor. If I  
23 had my computer, I would put it up on the screen.

24           I suppose, perhaps, the better language to have used  
25 would have been charging through the street at Mr. Skakle's

1 home. You can actually hear Mr. O'Keefe yell "George" in the  
2 video, George being George Skakle, and charging to his home, so  
3 Mr. O'Keefe and one of his agents is depicted charging through  
4 the streets, and I suppose a better way of describing it is that  
5 they are running towards his home.

6 So while Mr. Whitney describes it as walking up to his  
7 dry, what I would say is, in fact and in reality, he was  
8 charging to him while he was getting his mail from his mailbox.

9 THE COURT: Okay, so that reference in your letter to  
10 ECF no. 161 is to the incident involving Mr. Skakle.

11 MR. HARRIS: Yes.

12 THE COURT: All right, you can be seated.

13 MR. HARRIS: Thank you, your Honor.

14 THE COURT: All right, I understand that use of phrase  
15 now. You can move on to the next point, Mr. Whitney.

16 MR. WHITNEY: Yes, your Honor. Well, I just want to  
17 reiterate that the May 22nd conference before Judge Seibel, Mr.  
18 Harris said that there were videos plural showing James O'Keefe  
19 chasing potential trial witnesses plural, so we've heard about  
20 him potentially charging the home of George Skakle, but there's  
21 not James O'Keefe chasing witnesses plural. That --

22 THE COURT: Okay, let me just make sure that that's  
23 correct, and, again, the transcription, as outstanding as our  
24 court reporters are, there could have been an S added because  
25 it's a telephonic transcription. That happens occasionally.

1 I just want to make sure what the allegation is.

2 MR. HARRIS: Sure, your Honor. I think that could  
3 also just have been human error on my part when I --

4 THE COURT: Human error is also something that  
5 happens.

6 MR. HARRIS: But beyond that, I do want to point out  
7 although I don't have it here today, there is another witness  
8 who factors into this, that's Dan Strack, at whose house I  
9 understand Mr. O'Keefe also appeared, first sending two agents  
10 to the door, then after Mr. Strack's wife allegedly turned those  
11 individuals away, Mr. O'Keefe appearing himself banging on the  
12 door, and there are issues there too now.

13 I haven't submitted an affidavit, but, again, if the  
14 Court is desirous that I follow up with additional  
15 documentation, I would expect to provide that to the Court as  
16 well.

17 THE COURT: Okay. Mr. Strack, it was the -- am I  
18 correct that he was the CFO? I don't want to --

19 MR. HARRIS: CTO.

20 THE COURT: CTO. Thank you for that clarification.

21 MR. WHITNEY: COO.

22 MR. HARRIS: COO, apologies.

23 THE COURT: Okay. It was the chief officer of some  
24 sort. The chief operating officer? Is that right, Mr. O'Keefe?

25 MR. O'KEEFE: Yes, that's correct.

1 THE COURT: Okay.

2 And he's testified already?

3 MR. HARRIS: He has.

4 THE COURT: So those interactions, or alleged  
5 interactions, took place after his testimony, sort of similar to  
6 the situation with Mr. Skakle?

7 MR. HARRIS: Yes.

8 THE COURT: You got all of that, Tabitha? Of course,  
9 yes. Okay.

10 Mr. Whitney -- and, again, I don't mean to keep  
11 interrupting you, Mr. Whitney. I just want to have a clear  
12 record.

13 MR. WHITNEY: I'm happy for the interruption.

14 THE COURT: Okay.

15 MR. WHITNEY: All right, so we agree that folks should  
16 not be subject to this vitriol.

17 Mr. O'Keefe has been subject to vitriol far in excess  
18 of what's been relayed here. Matthew Tiermond, who we seek to  
19 depose, and we have two witnesses now in their depositions,  
20 under sworn testimony, confirming that Matt Tiermond openly  
21 stated in Project Veritas headquarters he wanted to decapitate  
22 James O'Keefe and carve his heart out and eat it with a spoon.  
23 He is quite visual.

24 THE COURT: Okay. I mean --

25 MR. WHITNEY: George Skakle --

1 THE COURT: And, again, I'm not saying this to  
2 minimize the severity and disturbing nature of that remark,  
3 which is atrocious, I don't know why anybody would say that  
4 about anybody else, but that really has nothing to do with the  
5 litigation, right? That was as part of the dispute that's given  
6 rise to the litigation, it's not because of something that  
7 happened in the conduct of this case?

8 MR. WHITNEY: It's hard to say what Mr. Tiermond's  
9 motivations are --

10 THE COURT: I mean, just temporally.

11 MR. WHITNEY: I think -- and temporally, that's  
12 accurate, your Honor --

13 THE COURT: Okay.

14 MR. WHITNEY: -- as the lawsuit was being filed around  
15 that time, so...

16 THE COURT: Okay. Although they were the ones filing  
17 it at that time, I suppose.

18 MR. WHITNEY: Right.

19 THE COURT: Right, okay.

20 Well, I'm sorry that you've endured that, Mr. O'Keefe.  
21 Honestly, that's, that's not appropriate either, and that's not  
22 a one-way street apparently.

23 MR. WHITNEY: Right. George Skakle testified during  
24 his deposition that he wanted to harm James O'Keefe.

25 THE COURT: Presently?

1 MR. WHITNEY: Yes.

2 THE COURT: Or at one point he felt that way?

3 MR. WHITNEY: I don't think we followed up to figure  
4 out if that desire had --

5 THE COURT: Okay. Although apparently that didn't  
6 stop Mr. O'Keefe from approaching Mr. Skakle with colleagues at  
7 Mr. Skakle's house, so, okay.

8 MR. WHITNEY: And I'm prepared to have Mr. O'Keefe  
9 testify if necessary, but Mr. Skakle after his deposition  
10 approached Mr. O'Keefe at a holiday party and took credit for  
11 firing him from Project Veritas, so in the same vein, Mr. Skakle  
12 was not intimidated by Mr. O'Keefe.

13 THE COURT: Fine.

14 MR. WHITNEY: I will note at this juncture, there's no  
15 testimony from anybody that when Mr. O'Keefe appears for a  
16 deposition they've been intimidated or he's attempted to  
17 intimidate them at their deposition, and it goes the point of  
18 trying to exclude him as a party from the depositions in this  
19 case.

20 Now, I do have documents or evidence of -- the  
21 complaint here is really about OMG exercising its First  
22 Amendment right in reporting on this dispute, so I have several  
23 exhibits that point out that Project Veritas is guilty of what  
24 it charges Mr. O'Keefe with.

25 THE COURT: I'm only chuckling because in my staff's

1 research into some of these issues, one of the cases that had  
2 some relevant information was, in fact, a case where Project  
3 Veritas was a defendant, in Michigan, regarding some similar  
4 allegations of misconduct having to do with depositions, but are  
5 you going to give me examples of things that happened when  
6 Project Veritas was under Mr. O'Keefe's leadership? Because  
7 that won't really be compelling.

8 MR. WHITNEY: No, your Honor, these are -- all follow  
9 his departure.

10 THE COURT: Okay.

11 MR. WHITNEY: So, for example, there is a September  
12 6th, 2023 article -- would you like me to present a copy to your  
13 Honor?

14 THE COURT: If you're going to refer to them, sure,  
15 please.

16 MR. WHITNEY: All right.

17 THE COURT: And make sure Mr. Harris has one as well.  
18 Thank you.

19 And just for the record, Mr. Whitney has handed the  
20 Court a printout from an Article in *The Washington Post*. It's  
21 what it appears to be at least. It's a seven-page document.  
22 The headline is "Project Veritas audit accuses 'untouchable'  
23 founder of improper spending."

24 Okay, Mr. Whitney you want to point me to the relevant  
25 portion here?



1 MR. WHITNEY: Yes, your Honor. I think the most  
2 relevant portion is at the bottom of the second page where it  
3 mentions Hannah Giles, a one-time O'Keefe ally, beginning at the  
4 second to last paragraph?

5 THE COURT: Yes, I see.

6 MR. WHITNEY: And so Hannah Giles was the successor  
7 CEO of Project Veritas, and first, what Project Veritas did was  
8 disseminate an audit conducted by Dorsey & Whitney that was  
9 supposed to be confidential, and then Hannah Giles here is  
10 commenting on the litigation, attacking James O'Keefe in the  
11 press, and otherwise, I guess, embarrassing him.

12 That's the first example, your Honor.

13 THE COURT: Okay. I guess this, I mean -- and you  
14 have other examples of Project Veritas employees saying things  
15 about Mr. O'Keefe in the media.

16 MR. WHITNEY: Yes, and one of the arguments made in  
17 the letters was that OMG's reporting is designed to prejudice  
18 the jury and that's its only purpose. I would argue if that's  
19 the case, all of these Project Veritas releases, *The Washington*  
20 *Post* articles, the next I have is a release of the audit to *The*  
21 *New York Times*.

22 THE COURT: Yeah. I mean, listen, the idea of, of --  
23 first of all, all this stuff happened some time ago, but this  
24 e-mail or this letter, I'm sorry, that you just -- excuse me,  
25 this article from *The Washington Post* that you just handed up is

1 from September 6th, 2023. It's hard to restrain conduct that  
2 happened that long ago. I -- Mr. Harris, perhaps, again, in an  
3 exercise of discretion didn't raise any arguments about  
4 prejudicing the jury pool, which are really premature at this  
5 point for all kinds of reasons, not the least of which, maybe  
6 this case doesn't stay in federal court at all if Mr. Harris has  
7 his way, but there's really no request here other than the stay,  
8 there's no request to stop O'Keefe Media Group from reporting on  
9 anything. I mean, I think that was part of the overall  
10 presentation about how this information is being received by the  
11 public.

12 Frankly, in all likelihood, if there are people who  
13 are avid readers of O'Keefe Media Group web sites and articles  
14 about this case, those are people who are not going to be  
15 suitable jurors in this matter, because they'll have too much  
16 information that they've already obtained and processed about  
17 it, I think -- well, I'm sure both Project Veritas and O'Keefe  
18 Media Group have a wide reach in terms of viewership and  
19 audiences, including within the Southern District of New York,  
20 and will have an ability to select jurors who are not familiar  
21 with this particular dispute. I'm pretty confident of that.

22 So I understand your point, I understand you may have  
23 more examples to make that point, Mr. Whitney, but I think we  
24 can move beyond that.

25 MR. WHITNEY: All right, and then, for the record,

1 I'll enter, separate and apart from sort of the exercise of  
2 press reporting, an e-mail Mr. O'Keefe received from Project  
3 Veritas, then Project Veritas attorney, Paul Cali, threatening  
4 Mr. O'Keefe with physical violence.

5 THE COURT: And your representation is this is an  
6 e-mail from Mr. Cali -- was Mr. Cali an attorney for Project  
7 Veritas in this case?

8 MR. WHITNEY: No.

9 THE COURT: I don't recall meeting him. No?

10 MR. WHITNEY: He was once upon a time counsel for  
11 Project Veritas.

12 THE COURT: Okay. There's a date on here that says  
13 May 3rd. Do you know what year?

14 MR. WHITNEY: 2023, your Honor.

15 THE COURT: Okay, I'm not going to read this into the  
16 record. It's full of, shall we say, course language and  
17 certainly not, not a communication that is particularly  
18 befitting of a member of a bar of this or any court, but it is  
19 noted as a...hostile, to say the least, and aggressive message  
20 from this individual who you say was Project Veritas's former  
21 counsel, directed at Mr. O'Keefe. Again, I'm not making light  
22 of it, I just -- you know, at some point, I'm not sure what to  
23 do with that, Mr. Whitney.

24 But, yes, I mean, it's, it's...that person did not  
25 cover himself in glory when he wrote that message, I mean, my

1 | goodness.

2 | MR. WHITNEY: Yes.

3 | We have further examples, but I think the Court gets  
4 | the point. I'm happy to present them --

5 | THE COURT: Yeah, no, I get the point. There's a lot  
6 | of ill will on both sides. That, I knew before showing up here  
7 | today. The question is really a narrow one for purposes of  
8 | discovery, which is to say, should there be any limitations or  
9 | restrictions imposed in this case that will better ensure the  
10 | safety of witnesses, better ensure that they are free from  
11 | harassment and intimidation to the extent that any order of this  
12 | Court could accomplish that, which, again, my powers of  
13 | restraint are limited, both by the constitution and by reality,  
14 | that I can't stop this member of the public who has some very  
15 | strong feelings about this dispute from picking up the phone or  
16 | picking up, you know, his or her phone to send a text message or  
17 | whatever it might be. I say that not to in any way make light  
18 | of the experiences of these witnesses or potential witnesses,  
19 | but just to note that it's...challenge at west best to try to  
20 | entirely control that behavior.

21 | Let's focus, I guess, then, on the three requests that  
22 | Mr. Harris has made. Again, assuming that I am going to allow  
23 | discovery to proceed, there are three requests. One is that the  
24 | depositions take place by remote means, the second is that Mr.  
25 | O'Keefe not attend, and I'm going to take a closer look at the

1 confidentiality order in a second on that point, and the third  
2 is to prohibit Mr. O'Keefe and his agents from appearing at the  
3 homes and businesses of any deposition witness in this case.

4           What your position? Or what is Mr. O'Keefe's  
5 position?

6           You haven't had a chance to talk to Mr. O'Keefe about  
7 any of these, so actually, I'm going to give you a couple  
8 minutes to talk to each other to see if anything of those things  
9 would be things that Mr. O'Keefe would be willing to agree to,  
10 without my having to order any of them, and I'm not saying I  
11 would or I wouldn't, but why don't you just take a -- let's take  
12 a five-minute recess, I'd like you to have a chance to talk  
13 about that with each other and give that some consideration.

14           In the meantime, I'll step back into the robing room  
15 and give a closer read to the confidentiality order to address  
16 the issue that Mr. Harris raised, and then we'll come back.

17           Okay?

18           MR. WHITNEY: One moment, if I may interject before  
19 you do that.

20           THE COURT: Yeah, sure.

21           MR. WHITNEY: The confidentiality order at this point  
22 about attorneys' eyes only, your Honor mentioned that the  
23 attorney's intent was just as relevant as the Court's intent.

24           THE COURT: Right, and you were the only one that was  
25 passport of that negotiation, Mr. Whitney, so...

1 MR. WHITNEY: Right. And Mr. Wallman was my  
2 counterpart there, Mr. Wallman did not read the order that way,  
3 and we know that because James O'Keefe attended deposition where  
4 Mr. Wallman was counsel and he never tried to exclude Mr.  
5 O'Keefe from those depositions based on that confidentiality  
6 order that, by the way, we opposed, as you know, so...

7 THE COURT: I do know that, yes, but -- right, and Mr.  
8 Wallman was not afraid to raise issues when he had issues to  
9 raise. I mean, that's been -- that was my experience in this  
10 case. I'm not saying that critically, it's just a fact, we had  
11 a number of disputes that were initiated by Mr. Wallman about a  
12 variety of things, so I do think that that is a useful point,  
13 Mr. Whitney, that Mr. Wallman did not interpret the protective  
14 order in that way. Nevertheless, I'm going to go look at it a  
15 little more closely on that point and we'll be back in a few  
16 minutes.

17 All right, thanks, everybody.

18 (Recess taken)

19 THE COURT: Please be seated. Thank you.

20 All right, so the question on the table for you, Mr.  
21 Whitney was, what would Mr. O'Keefe's position be with respect  
22 to those three requests from Mr. Harris.

23 MR. WHITNEY: Mr. O'Keefe is prepared to make a  
24 concession.

25 THE COURT: Okay.

1 MR. WHITNEY: That -- first of all, Mr. O'Keefe and  
2 OMG have an ethical obligation to seek comment on these stories  
3 that they're releasing and so that was the goal of visiting Mr.  
4 Skakle's home and trying to reach Mr. Strack who both appear in  
5 the documentary, and their deposition expert -- excerpts appear  
6 as well, but nonetheless, Mr. O'Keefe agrees not to appear at  
7 deponent's homes, personally, seeking comment, although he still  
8 would like to have, and reserves the right to have, OMG, as an  
9 organization, reach out to these witnesses and call them and  
10 seek comment on the stories that will be released.

11 THE COURT: Okay. Seeking comment through what I  
12 would think of -- and I -- again, when I say more traditionally,  
13 I don't necessarily mean better.

14 This is not a critique of your style of journalism,  
15 Mr. O'Keefe. I'm just -- it's just an observation, because a  
16 lot of journal is conducted over the phone or by  
17 videoconference, not in person in a, in a direct face-to-face  
18 style. Some journalism is conducted that way, but, again, there  
19 are ways of seeking comment that don't involve going to  
20 somebody's house, you or anybody else for that matter, so the  
21 idea of seeking comment, I certainly am not going to sit here  
22 and say you can't do that.

23 I think the willingness to refrain from appearing  
24 personally, Mr. O'Keefe appearing personally, and also have OMG  
25 personnel, employees, or agents, appear personally, I assume

1 that's part of this agreement, right?

2 MR. WHITNEY: Yes, your Honor.

3 THE COURT: Okay, I think -- I appreciate that  
4 agreement. I think that goes a long way towards at least  
5 removing the concern that Mr. Skakle -- about a repeat of the  
6 experience Mr. Skakle had or Mr. Strack.

7 Mr. Harris, I'm not going to stop OMG from reporting  
8 on this case or on the depositions, but I think that does go a  
9 long way to addressing the, the immediacy of the concern about  
10 intimidation or physical invasion of privacy or something to  
11 that effect.

12 MR. HARRIS: I agree, your Honor, and we would not ask  
13 that your Honor interfere with his ability to report.

14 THE COURT: Right.

15 MR. HARRIS: We would ask, though, that the agreement  
16 be memorialized.

17 THE COURT: Okay. I'm going to ask you to write that  
18 up with each other as opposed to my ordering it, because you can  
19 get the language right and also it is -- you know, you describe  
20 it as concession by Mr. O'Keefe, and I think it is that and I  
21 recognize it as that, so I'd rather have that be an agreement  
22 among the parties rather than a directive from the Court, even  
23 though it's happening sort of under the umbrella of this  
24 proceeding.

25 If you can't figure that out, I think it really just



1 needs to be an e-mail from Mr. Whitney to Mr. Harris explaining  
2 what we've talked about here today. You can also reference what  
3 was said in open court here, because you're going to order the  
4 transcript, I'm sure, as you should, and I think that should,  
5 that should address the issue, but I think having a written  
6 representation of that, on top of the oral representation which  
7 has been memorialized on the transcript, will be sufficient, and  
8 I appreciate that point.

9 MR. HARRIS: Thank you, your Honor.

10 THE COURT: Okay for you, Mr. Harris.

11 MR. HARRIS: Yes.

12 THE COURT: Okay, so thank you for that, Mr. Whitney.

13 What about the other two points with respect to remote  
14 depositions and -- you can be seated, Mr. Harris -- and Mr.  
15 O'Keefe's attendance.

16 MR. WHITNEY: The remote depositions, I think there's  
17 a, there's a nexus problem there. I think you challenged Mr.  
18 Harris on this because it's not clear what purpose that serves.

19 Certainly, in-person depositions are more effective in  
20 my experience and so we want the right to -- even though I don't  
21 necessarily want to fly to Wichita, Kansas, next week, although  
22 I'm prepared to do so because --

23 THE COURT: Wichita's lovely this year.

24 MR. WHITNEY: Right. Or in Miami in late June perhaps  
25 or --

1 THE COURT: That seems, that seems hot to me  
2 personally, but okay.

3 MR. WHITNEY: Yeah, it's hot in June, that's true.

4 THE COURT: I don't mean to -- listen, that's my  
5 style. You don't know me that well. I try to, you know, inject  
6 a little bit of levity from time to time because these are  
7 serious proceedings and we should all smile from time to time.  
8 That doesn't in the way suggest that I'm not taking it  
9 seriously. People who sit in court with me all the time will  
10 just recognize that that's what I do, so I apologize if anybody  
11 takes that the wrong way. It's certainly not intended that way.

12 Here's, here's what I'm prepared to do on the remote  
13 depositions. I'm not going to issue a blanket order requiring  
14 all depositions to take place remotely.

15 Mr. Harris, if you have particular witnesses who have  
16 particularized concerns about sitting in a room with Mr.  
17 O'Keefe, for whatever reason, I will entertain an application  
18 for that deposition to take place remotely. It has to be  
19 submitted at least a week prior to the deposition. We can't be  
20 doing this on an emergency basis, like we did with all of those  
21 things last week.

22 And I'll hear from you in response, Mr. Whitney, and  
23 sometimes on your response will be, no, Judge, I really need to  
24 do this one in person because of X, Y, and X reasons; sometimes  
25 it might be, you know what, I can skip the flight to Wichita,

1 this one's not going to be as detailed, it's not going to be as  
2 document intensive; or maybe it will never be that, but you'll  
3 have an opportunity to respond, briefly, of course.

4           Whether the depositions take place remotely or in  
5 person, I'm certainly not going to impose any restrictions on  
6 videotaping the depositions. That's an important tool for a  
7 trial preparation, so the depositions absolutely should be  
8 videotaped, especially for witnesses that are outside the  
9 subpoena range of the Court.

10           I think -- I have in mind here this one witness who  
11 has remained nameless here and who maybe has a heightened level  
12 of concern, and I don't know that the witness's concern has  
13 anything to do with Mr. O'Keefe, because, as we've talked about,  
14 whatever threats may have been directed against this witness  
15 weren't from Mr. O'Keefe specifically, weren't directed by Mr.  
16 O'Keefe, at least there's no evidence to suggest that they were  
17 directed by Mr. O'Keefe, but, you know, if a witness has  
18 received -- prior to testifying even, has received threats of  
19 death or sexual violence, I mean, that seems like something that  
20 may be a cause for concern, more of a cause for concern than  
21 anything else I've heard so far here today.

22           So, again, there may be a more robust application that  
23 can be submitted. There if it's an application that's filed on  
24 ECF, it can be filed under seal on ECF. Maybe these are some  
25 things that you'll be able to work out with each other because

1 of particular concerns. If not, you know, they pay me a salary  
2 to resolve the disputes, so I will resolve them, that's fine,  
3 but, again, I'm not going to issue a blanket order that all  
4 depositions take place remotely.

5 I've put the cart before the horse on this a little  
6 bit. I'm going to go back and just formally memorialize what  
7 I've already hinted at, which is I'm going to deny the  
8 application for a stay of discovery. I find that there are no  
9 factors here that really support the stay request. The breadth  
10 of discovery is not extensive this is a set of depositions that  
11 the counter-claimants have been intending to take for some time,  
12 there's been notice of these depositions through court  
13 proceedings for quite some time and there's no application that  
14 any of the discovery should not be taking place because it goes  
15 beyond the scope of what is relevant and proportional to the  
16 needs of the case under Rule 26. If there is such an  
17 application for a particular witness, I'll entertain that at an  
18 appropriate time, but the breadth of the discovery is not so  
19 great as to warrant a stay.

20 The dispositive motion factor I've already addressed  
21 to some extent. We're talking about dispositive motions that  
22 are being filed effectively towards the end of discovery, which  
23 is understandable, given how the case has proceeded, but it's a  
24 little bit different than a stay of discovery at the outset when  
25 a motion to dismiss might be pending, where the expenditure of

1 resources may be unwarranted in light of the potential for the  
2 dismissal of the entire case.

3           Here, I think that the expenditure of resources is not  
4 insignificant I recognize that it's a burden to some extent on  
5 both sides, but I think that there is a high likelihood that at  
6 least some claims will be revivable in state court even if they  
7 are dismissed in federal court, and for that reason, I don't  
8 think that the fact of a dispositive motion that is forthcoming  
9 warrants a stay.

10           And as far as prejudice, again, I don't find that the  
11 prejudice to Project Veritas here in continuing with discovery  
12 is sufficient to warrant a stay. Of course, again, there's some  
13 prejudice. There will have to be time and money, resources,  
14 devoted to discovery as opposed to not, so I'm not saying that  
15 there's a finding of zero prejudice here, but I don't find that  
16 the prejudice is nearly substantial enough to warrant a stay, so  
17 I am going to deny the application for a stay.

18           That, then, gets us to these other questions.

19           I am going to deny the request that the depositions  
20 automatically take place remotely, but I will entertain those  
21 obligations on a case-by-case basis, as needed. Mr. O'Keefe has  
22 agreed to refrain from personally appearing at the homes or  
23 businesses of the deposition witnesses and has also agreed to  
24 refrain from having OMG employees appear at the homes and  
25 businesses of the witnesses in seeking comment on any of the

1 deposition testimony. If OMG's going to seek comment on any of  
2 the deposition testimony, they will use other means of  
3 communication, phone, mail, e-mail...whatever else, whatever  
4 else doesn't involve showing up unannounced at some person's  
5 location.

6           And just to be clear, that agreement doesn't mean that  
7 Mr. O'Keefe could not interview with someone in person if they  
8 agree to be interviewed in person. I could imagine a scenario  
9 where Mr. O'Keefe or his colleagues say, Mr. So-And-So, we'd  
10 like to interview you, would be willing to answer questions by  
11 video or in person and the person said, sure, I'd be happy to  
12 see you in person, it could happen, stranger things have  
13 happened, and so Mr. O'Keefe's agreement to refrain from showing  
14 up unannounced at homes or businesses doesn't mean he couldn't  
15 talk to these witnesses if they willingly agreed to speak with  
16 him.

17           As far as the question of whether Mr. O'Keefe can  
18 attend the depositions, I did go back and look at paragraph 3 of  
19 the protective order, and I don't read that paragraph to mean  
20 that the deposition transcript is automatically treated as  
21 highly confidential attorneys' eyes only in every instance. I  
22 read it to mean that if a portion or the entirety of the  
23 deposition is designated as confidential or highly confidential,  
24 attorney's eyes only, then the 30-day period applies, so I don't  
25 think that that's applicable at the outset.

1 And, of course, there would have to be a good-faith  
2 basis within the meaning of paragraphs 1 and 2 to -- I'm sorry,  
3 there would have to be a good-faith basis to declare some  
4 portion, or the entirety, of a deposition to be confidential or  
5 highly confidential within the meaning of paragraphs 1 and 2,  
6 paragraph 1 in particular, which defines what those terms mean,  
7 the disclosing party or, here, the party asserting the  
8 protection for a deposition, has to in good faith believe that  
9 the information is so highly sensitive -- this is for highly  
10 confidential, "confidential information that is so highly  
11 sensitive that its disclosure could result in identifiable  
12 disadvantage to the designating party, including a party's  
13 non-public tax, banking, or health records."

14 So, again, that's a high threshold and it's...those  
15 protections are in place, that is, the order of the Court, but  
16 there's no language here that automatically requires that the  
17 entirety of a deposition transcript be treated as attorney's  
18 eyes only, so at least within the meaning of the protective  
19 order, Mr. O'Keefe is not prohibited from attending the  
20 depositions.

21 Now, I'm not sure if it's really necessary for him to  
22 attend all the depositions, but what's, what's Mr. O'Keefe's  
23 position on that, Mr. Whitney?

24 MR. WHITNEY: Yes, your Honor, we would want to  
25 reserve the right that he attend in person, and the reason for

1 that is not just to stare at the person across the table and  
2 attempt to intimidate them, but it's because Mr. O'Keefe lived  
3 this and so he's feeding me documents and questions and  
4 responding in real time and I think we would work much more  
5 productively if we're in the same room than if I have to call  
6 him on breaks, so...

7 THE COURT: Yeah, so I'm not going to order that Mr.  
8 O'Keefe be barred from attending the depositions, but, again, in  
9 the same way that I laid it out with respect to the remote  
10 deposition issue, if there's a particular articulable basis for  
11 why a witness believes that Mr. O'Keefe's presence will have  
12 some sort of harassing or intimidating effect on the witness,  
13 this, this ruling does not preclude an application to have Mr.  
14 O'Keefe specifically from attending in person that particular  
15 deposition.

16 Again, that's a tough threshold, I think, to satisfy,  
17 and you'd have to really make a proper showing, Mr. Harris. It  
18 can't just be, the witness doesn't feel like seeing Mr. O'Keefe.  
19 There would have to be more of a showing in order for that to be  
20 compelling.

21 And, listen, Mr. Whitney, I mean, my hope would be  
22 that if Mr. Harris really does have some sort of compelling  
23 showing, I have no reason to believe there will be, but maybe  
24 there's a witness, Mr. O'Keefe, who you've had some run-in with  
25 recently, I don't know, but if there is a compelling showing,



1 Mr. Whitney, I would hope that you would take that under careful  
2 consideration, discuss it with Mr. O'Keefe, and consider whether  
3 that would be one for Mr. O'Keefe to sit out. Again, I'm not  
4 saying you have to agree to it, but I just do want you to talk  
5 to each other, have a good-faith discussion about it, and if  
6 there's a dispute, you can tee it up for me.

7           And you've seen I try to respond to things as promptly  
8 as possible. I can't always respond to them the same day, which  
9 is why I am asking you to submit any disputes about these kinds  
10 of things, who can attend, where the deposition's going to be,  
11 whether it's going to be remotely, and get those in a week in  
12 advance. For your own planning purposes, so we don't find  
13 ourselves in the situation that we had the other day with Mr.  
14 Wettmore, somebody needed to get into a car unless we made a  
15 decision immediately. I mean, it's fine, we can do that from  
16 time to time, but if we can minimize the amount of fire drills  
17 that we have, that would be better for all of our stress levels,  
18 I would imagine. Okay?

19           I think that covers everything except for the overall  
20 request for the extension of discovery, which I am going to  
21 grant. I'm going to grant the extension until August 15th,  
22 which was the request.

23           I did say when I issued this order previously that  
24 extensions were likely to be denied if they weren't made on  
25 consent, I am a person of my word, but in this case, I think

1 | there are good reasons for the extension. Particularly given  
2 | that the briefing on the motion is going to take some time and  
3 | there's no imminent end of discovery so that Judge Seibel can  
4 | get the case back for summary judgment practice or whatever the  
5 | next steps might be for her, I don't think there's any prejudice  
6 | to a short extension of the discovery deadlines. There are  
7 | obviously some open issues with respect to some of these  
8 | witnesses who may or may not be cooperative and may or may not  
9 | be exercising rights to seek to move to quash.

10 |           To be clear, the dates that are subject to the order  
11 | that I issued at ECF no. 153 are still the dates, right, so that  
12 | order is still a valid order. The only thing that's changing  
13 | here is that we're extending the deadline for the completion of  
14 | depositions to August 15th, so the same rules are going to  
15 | apply.

16 |           You have to tell me when the depositions are, if  
17 | you're going to move the depositions, you do have to write to me  
18 | about them, and I don't anticipate extending this deadline any  
19 | further except to the extent there is a proceeding in another  
20 | court that is interfering with the completion of the deadline,  
21 | so if somebody has actually filed a motion to quash in a  
22 | district where compliance with the subpoena is required, a  
23 | colleague of mine in Florida or Wichita or wherever is going to  
24 | have to rule on that motion. I don't know what he or she will  
25 | do or how quickly he or she will act on that motion, so that

1 would be an exception to my, to my point that I really don't  
2 anticipate extending this deadline any further, because that's  
3 not something I have as much control over. You all, I have some  
4 control over. Other judges in other districts I don't have as  
5 much control over, and I wouldn't want them to be trying to  
6 exert that pressure on me either, so that's just a matter of  
7 reciprocal courtesy to my colleagues.

8           We had a deadline in place for you to provide me with  
9 a current schedule of depositions. That deadline was tomorrow.  
10 I'm going to extend that deadline to a week from tomorrow, June  
11 17th, so hopefully we could have some further clarity. So the  
12 June 10th deadline to provide a status report on the deposition  
13 schedule is extended to June 17th, no letter needed for  
14 tomorrow, but send me a letter on the 17th and give me an update  
15 on where things stand with all of the witnesses. That means all  
16 of the witnesses that were identified in the order at 153. A  
17 couple of those witnesses have, I think, now been deposed. A  
18 couple have dates, but a couple don't have any dates at all.

19           I see now -- I thought that name sounded familiar. I  
20 see now that Paul Cali, Esquire, is actually listed as a witness  
21 in this ECF no. 153. That seems like it's going to be an issue,  
22 because of all the usual reasons why deposing an attorney is an  
23 issue, so something tells me we'll be back here to talk about  
24 that.

25           Where is Mr. Cali located, do we know?

1 MR. WHITNEY: Miami, Florida. To our knowledge.

2 THE COURT: Okay, well, I have a lot of friends in the  
3 Southern District of Florida so I guess maybe I'll be hearing  
4 from one of them at some point. Okay. I knew that name sounded  
5 familiar, but I didn't think he was one of the attorneys on this  
6 case. Okay, now I see why it sounded familiar.

7 There was a request as part of the letter at ECF no.  
8 158 to add Hannah Giles as a deposition witness. I will allow  
9 that again, though with the same August 15th deadline, and, of  
10 course, the request to add Mr. O'Keefe as a witness that Mr.  
11 Harris has articulated here in court today and also in writing,  
12 that is also granted, again, subject to the same August 15th  
13 deadline.

14 So you all have a lot of work to do, you'll be  
15 spending a lot of time together over the next two months, but by  
16 June 17th, just give me the rundown of where things stand with  
17 each witness. Again, if you have a date and it's agreed upon,  
18 that's all you need to tell me, but if things are still  
19 percolating in terms of motions to quash or anything of that  
20 nature, you'll let me know.

21 And, really, at this point, by the 17th, I don't want  
22 to hear that anybody hasn't been served or at least you haven't  
23 attempted service. There's somebody, I think it's a Mr. O'Hara,  
24 where you said you may file a motion for alternative service.  
25 We've been down that road before obviously, but, you know, you

1 hadn't attempted even to serve Mr. Serafin. By the 17th, I  
2 don't want to hear that there's any witness who you haven't at  
3 least attempted to serve, and hopefully you've served everybody,  
4 or you'll let me know when you propose to file a motion for  
5 alternative service.

6 Obviously, for Mr. -- have you served Mr. Serafin yet,  
7 Mr. Whitney?

8 MR. WHITNEY: No, your Honor, we rounded up dates  
9 under that order, so...

10 THE COURT: Fair enough, okay. So you might not be in  
11 a position -- you'll be in a position to serve him before next  
12 Tuesday, but you may not be in a position to make a motion for  
13 alternative service because you'll have just started the process  
14 of trying. Hopefully he will be easier to locate than some of  
15 these other folks.

16 All right, I think that covers all of the outstanding  
17 issues, but you can tell me if I've missed anything.

18 Mr. Harris, is there anything further from the  
19 Plaintiff's perspective?

20 MR. HARRIS: I think that's everything, your Honor.

21 THE COURT: Okay, I don't think that there's any need  
22 for you to submit anything further at this point. If you would  
23 like to, for any reason, you can coordinate via the Chamber's  
24 e-mail address to submit something via the Court's FTP site,  
25 but, but I don't really think it's necessary.

1 MR. HARRIS: Okay, and I agree, your Honor.

2 THE COURT: Okay. And I do apologize about the  
3 confusion with the electronic device order. If that happens  
4 again and you don't really know what's going on, you should feel  
5 free to send another e-mail. We won't treat it as harassing or  
6 anything like that.

7 MR. HARRIS: Okay.

8 THE COURT: I'm serious, because that, that was just a  
9 mistake on our part. Ms. Brown, who is usually a hundred  
10 percent on top of these things, was working from home on Friday  
11 and it just -- it was just a little bit of confusion. I was in  
12 a five-hour settlement conference, so...it just got a little  
13 lost and I do apologize for that.

14 MR. HARRIS: That's okay, your Honor. No problem.

15 THE COURT: But, again, if that happens, just call  
16 Chambers or send another e-mail, maybe explain a little bit more  
17 what has happened or what the confusion is, and, you know, I'm  
18 not sorry we weren't able to get that straightened out.

19 MR. HARRIS: Thank you, your Honor.

20 THE COURT: Okay.

21 Mr. Whitney, anything further from your client's  
22 perspective?

23 MR. WHITNEY: No, your Honor, we've covered it.

24 THE COURT: Okay. Thank you, counsel.

25 And, listen, you know, one of the reasons it's nice to

1 be here in person is -- first of all, it's to see all of you,  
2 but, really, it takes the temperature down a little bit as far  
3 as I'm concerned. To be in court and be in a formal setting,  
4 it's little bit different than -- and not that anyone's been  
5 inappropriate in this case in the way you've handled it, but,  
6 again, I think when people walk into court, there's a little bit  
7 of a formality and solemnity to the proceedings that, you know,  
8 sometimes just helps, especially when things are getting heated,  
9 and so we may come back here again if the temperature gets  
10 dialed up again.

11 I'm not doing it to inconvenience anybody or make  
12 things difficult, I actually just think it's very helpful, so I  
13 appreciate you being here and we'll stand adjourned. Take care,  
14 everybody.

15 We're not going to -- I'll just say, last thing,  
16 sorry, we're not going to schedule another proceeding just yet.  
17 We're going to get the update on June 17th and then we'll set  
18 another status report or status conference date from there. All  
19 right? And make sure you get the appropriate form so you can  
20 order the transcript of today's proceeding, all right?

21 Take care.

22 MR. HARRIS: All right, thank you.

23 Certified to be a true and accurate transcript.

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TABITHA DENTE, RPR, RMR, CRR

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